IN THE UNITED STATES DISTRICT COURT FORTHE MIDDLE DISTRICT OF FLORIDA
Orlando Division

FILED
96 OCT. 21 PM 4:11
CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

RICHARD A. BOLT,P.A.,et.al.
PLAINTIFFS

V.

CASE NO. 82-122-CIV-ORL-18

HALIFAX HOSPITAL MEDICAL CENTER,et.al.
DEFENDANTS

FINAL ORDER

This matter is before the Court on Plaintiff Richard A. Bolt, M.D.'s Amended Motion #1 in support of 60(b) 4 Relief Regarding "Due Process of Law" concerns. Upon due consideration, for the reasons stated in the memorandum this day filed and deeming it just and proper to do so, it is hereby ADJUDGED and ORDERED that Plaintiff's Motion be and the same is DENIED.

Plaintiff is advised of his right to appeal to the United States Court of Appeals for the Eleventh Circuit. In order to exercise that right, Plaintiff must notify the clerk of this Court in writing within thirty(30) days of this date. Failure to do

so may result in Plaintiff losing his right of appeal.

Let the Clerk send a copy of this Order to all counsel of record and Plaintiff Richard Bolt, MD , 98 Sea Marsh Road, Amelia Island, Florida 32034.

s/ "Robert Merhige"

_____ UNITED STATES DISTRICT JUDGE

_date

IN THE UNITED STATES DISTRICT COURT FORTHE MIDDLE DISTRICT OF FLORIDA
Orlando Division

FILED
96 OCT. 21 PM 4:12
CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

RICHARD A. BOLT,P.A.,et.al.
PLAINTIFFS

V.

CASE NO. 82-122-CIV-ORL-18

HALIFAX HOSPITAL MEDICAL CENTER,et.al.
DEFENDANTS

ORDER

This matter is before the Court on a motion by Plaintiff Richard A. Bolt, MD for Reconsideration For Relief From Judgment Under 60(b) 6: and a motion to strike by defendant Memorial Hospital of Ormond Beach. Upon due consideration, for the reasons stated in the Memorandum this day filed and deeming it just and proper to do so, it is hereby ADJUDGED and ORDERED that Plaintiff's Motion be and the same is also DENIED as moot.

Let the Clerk send a copy of this Order to all counsel of record and Plaintiff Richard Bolt, MD , 98 Sea Marsh Road, Amelia Island, Florida 32034.

s/ "Robert Merhige"

_____

_date UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FORTHE MIDDLE DISTRICT OF FLORIDA
Orlando Division

FILED
96 OCT. 21 PM 3:45
CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

RICHARD A. BOLT,P.A.,et.al.
PLAINTIFFS

V.

CASE NO. 82-122-CIV-ORL-18

HALIFAX HOSPITAL MEDICAL CENTER,et.al.
DEFENDANTS

MEMORANDUM

This matter is before the Court on a motion by Plaintiff Richard A. Bolt, MD ("BOLT") for Reconsideration For Relief From Judgment Under 60(b) 6: and a motion to strike by defendant Memorial Hospital of Ormond Beach. Defendants Alvin Smith, MD and Shederick Roberson, MD ("SMITH &ROBERSON) have also filed a Memorandum in Opposition to Bolt's Motion for Reconsideration. For the reasons which follow, the court will deny Bolt's Motion on the merits and deny Memorial Hospital's Motion as moot.

I.

On August 14, 1996, this Court entered an Order (Docket No. 112) which denied Bolt's

Motion for Relief From Judgment premised upon Rule 60(b) (6) alleging fraud comitted by his counsel. In the Memorandum which accompanied that Order (Docket No. 113), this Court unambiguously articulated the rationale behind its denial of Bolt's Rule 60 (b) (6) motion:

> There must be an end to litigation. Plaintiff Bolt having consented to judgment, and the judgment having been entered and he having appealed that judgment and lost, this case is at an end....(Bolt's) contention of fraud is untimely in any event. That portion of Plaintiff Bolt's motion wich seeks to vacate the judgment pursuant to 60(b) (6) as a result of alleged fraud will be denied.

Docket No. 113 at 3

Bolt subsequently filed a Motion for Reconsideration of the Court's ruling. In response Smith and Roberson filed their Memorandum in Opposition and Memorial Hospital moved under Fed. R. Civ. P. 12 (f) to Stike Bolt's Motion as violative of Local Rule 3.10 of the Local Rules of the United States District Court for the Middle district of Florida.

As Smith and Roberson correctly note in their Memorandum in Opposition, it is well-settled that motions for reconsideration are

"ordinarily granted only to correct clear errors of law or fact or to present newly discovered evidence which could not have been adduced during the pendency of the (original) motion." Kohl v. Murphy, 767 F. Supp. 895, 904 (N.D. Ill. 1991); see also Paper Recycling, Inc. v. Amoco Oil Co., 856 F. Supp. 671, 678 (N.D. Ga. 1993) ("(A) motion for reconsideration serves that limited purpose of correcting manifest errors of law or fact, or in certain circumstances, calling newly discovered evidence to the Court's attention.").

The Court finds that Bolt's Motion for Reconsideration does not present any newly discovered evidence. Instead, the Motion is merely a rehash of the arguments Bolt presented in his original Rule 60(b) Motion for Relief from judgment. Moreover, Bolt has failed to make any showing in his Motion for Reconsideration of a "manifest error of law or fact." See id. at 678. Accordingly, Bolt's Motion for Reconsideration will be denied. In light of the Court's denial of Bolt's Motion for Reconsideration, Memorial Hospital's Motion to Strike will be denied as moot.

An appropriate Order shall issue.

s/ "Robert Merhige"

_____
_date UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FORTHE MIDDLE DISTRICT OF FLORIDA

Orlando Division

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PLAINTIFFS

V.

CASE NO. 82-122-CIV-ORL-18

HALIFAX HOSPITAL MEDICAL CENTER,et.al.
DEFENDANTS

MEMORANDUM

This matter is before the Court on Plaintiff Richard A. Bolt, M.D.'s Amended Motion #1 in support of 60(b) 4 Relief Regarding "Due Process of Law" concerns. Defendant Memorial Hospital of Ormond Beach, as well as Defendants Alvin Smith, MD and Shederick Roberson, MD ("SMITH &ROBERSON) have filed a Memorandum in Opposition and the matter is ripe for review. For the reasons that follow the Court will deny Bolt's motion.

I.

The issues presented in Bolt's amendedn motion were first before the Court on bolt's original Motion for Relif From Judgment premised upon Rule 60(b) 4. There, Bolt alleged that the trial court's actions violated his due process rights. In considering Bolt's motion the Court found that Bolt had only

offered a "general statement that the trial judge 'acted in a manner inconsistent with the due process of law.' " Docket No. 113 at 2-3. The Court found that Bolt made "no further attempt to elaborate on his conclusion concerning due process, nor does he state any facts in support of hos contention that fraud had been committed by his trial counsel. Indeed, he has simply attached to his motion excerpts of settlement negotiations." Id. at 3. Accordingly on August 14, 1996 this Court entered an Order granting Bolt a period of fifteen days to set forth facts , s distinguished from conclusory (sic) statements, which Bolt contends deprived him form due process of law. Docket No. 112. Subsequently Bolt filed his amended 60(b) 4 Motion.

II.

In his Amended Motion, Bolt points to six facts to support his argument that he was deprived of due process of law. Bolt claims that these facts reveal that he was denied both the right to be heard as well as the right to an impartial and competent judge. Upon due consideration, the Court finds that Bolt has failed to provide a sufficient factual basis to support his contention that he was denied an opportunity to be heard. An examination of the entire trial transcript reveals that the proceeding was not conducted in a manner that deprived

Bolt of notice, hearing, or any other fundamental constitutional right. On the contrary, Bolt was questioned by the trial judge and Bolt's counsel in the judge's chambers. After some discussion, Bolt voluntarily decided to dismiss his case with prejudice as to all defendants. In exchange, the Defendants agreed to waive any actions for costs against the Plaintiffs.

Similarly, the Court finds that Bolt has failed to present a sufficient factual basis to support his claim that the trial judge was partial or incompetent. The essence of Bolt's argument is that the trial judge improperly facilitated the request of Bolt's counsel to withdraw in mid-trial and then refused to allow Bolt to proceed pro se. However, a review for the entire trial transcript reveals that the Court specifically stated that it would not permit counsel for Bolt to withdraw during the trial. Tr. at 62, lines 3-8.

Finally, the Court notes that Bolt's Amended 60(b) (4) Motion, like many of Bolt's other post-trial motions, alleges improper conduct by Bolt's trial counsel. The Court emphasizes that Bolt's remedy, if any, exists not in this Court but rather through the independent malpractice action that Bolt is currently pursuing against his former attorneys.

This Court has afforded Bolt ample opportunity to present factual evidence that he

was denied his constitutional right to due process of law. After fourteen years of litigation, including nearly two years of appeal and post-trial motions, the Court finds that Bolt has not been deprived of his right to due process. Accordingly, Bolt's Amended 60(b)(4) Motion will be denied.

An appropriate Order shall issue.

s/ "Robert Merhige"

_____ UNITED STATES DISTRICT JUDGE

_date